



MORGAN & FINNEGAN, L.L.P.
3 WORLD FINANCIAL CENTER
NEW YORK NY 10281-2101

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APR 24 2008

In re Application of
Paivi M. Ruuska et al.
Application No. 10/797,205
Filed: March 9, 2004
Attorney Docket No: 4208.4131US1

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ON PETITION

This is a decision on the petition to withdraw the holding of abandonment, filed March 26, 2008, which is treated under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition is **GRANTED**.

This application became abandoned on October 11, 2007, for failure to file a timely response to the non-Final Office Action mailed July 10, 2007, which set a three (3) month statutory period for reply. The instant petition and this petition precede the mailing of the Notice of Abandonment but Petitioner asserts that the non-Final Office Action was never received.

The file record discloses that the Office Action was mailed to the address of record which is the same address used on all correspondences from the USPTO. Petitioner has provided a copy of the docket report, wherein receipt of the Office Action mailed July 10, 2007 would have been filed, had it been received. To show that the Notice mailed July 10, 2007 was not received, petitioner also explains that after searching the file jacket it was concluded that no correspondence was received for this matter from the USPTO,

In that the statement from the petitioner and the exhibit from the docket record for the instant matter show no entry indicating receipt of the non-Final Office Action mailed July 10, 2007, it is apparent that it was not received. The evidence submitted corroborates non-receipt of the Office Action.

In view of the facts set forth in the petition, it is concluded that the Office Action was never received at the address of record. Accordingly, the holding of abandonment is withdrawn and no petition fee is due.

This matter is being referred to Technology Center 2614 for a re-mailing of the non-Final Office Action and for a restarting of the period for response.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions